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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,138	10/12/2000	John J. Sie	19281-000700US	1028

20350 7590 03/31/2005

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

BUI, KIEU OANH T

ART UNIT PAPER NUMBER

2611

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/687,138

Applicant(s)

SIE ET AL.

Examiner

KIEU-OANH T BUI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Applicants' Appeal Brief

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Response to Arguments

2. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

4. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kermode et al. (U.S. Patent No. 6,018,359 or "Kermode" hereinafter).

Regarding claim 1, Kermode discloses "a method for pre-storing a portion of a program distributed on a plurality of distribution conduits and in a linear schedule with staggered start times", i.e., programs and portions of program are pre-stored in a buffer 117 (Fig. 1/117-1 & 117-2) of a receiver 1 and 2 being distributed by an interactive network from a server 100 to a plurality of transmission line 104 to users 120 in a linear schedule with staggered start times

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(Fig. 2, col. 6/lines 14-36), the method comprising: “determining a first start time of the program on a first distribution conduit”; “determining a second start time of the program on a second distribution conduit”, i.e., a first start time 0 of a program and a first start time t' of the program on two channels P_s and P_a (Fig. 2, and col. 6/lines 14-36); “determining a stagger time between the first start time and the second start time”, i.e., the stagger time between the first start time and the second start time is determined as $t' - 0$ or from 0 to t' (Fig. 2, and col. 6/lines 14-36; “storing a segment of the program about equal in length to the stagger time”, i.e., the segment or portion of video programs equal to the stagger time as noted is stored in a buffer storage 117 (see further on the process in Figs. 3 & 4, and col. 7/lines 5-44); and detecting a user request to begin playing the program after the storing step has begun, i.e., all portions or segments are pre-stored or pre-cached in the buffer memory before a user request to begin playing the program (col. 4/lines 20-45 for the objective; col. 9/lines 10-36 for buffer memory and col. 11/lines 20-44 for pre-storing a segment of video before the user requests at a local receiver or set top box).

As for claim 2, in view of claim 1, Kermode further discloses “wherein at least one of the first and second distribution conduits comprises at least one of a digital channel and an analog channel”, i.e., digital and analog can be used within this transmission/distribution system (col. 5/lines 14-24).

As for claim 3, in view of claim 1, Kermode further discloses “wherein at least a portion of the first and second distribution conduits share a same channel”, i.e., all segments of a movie is transmitted as separate logical channels over ONE (same meaning sharing one channel) or more physical channels (col. 6/lines 10-13).

As for claim 4, Kermode further suggests “wherein at least one of the first and second distribution conduits comprises a broadband network connection”, i.e., larger storages, larger bandwidths, a high speed data connection and high speed router referring to a broadband network connection (col. 9/lines 10-60).

As for claim 5, in view of claim 1, Kermode further discloses “wherein the determining the stagger time comprises subtracting the first start time from the second start time”, i.e., the first segment regarding as the stagger time comprises subtracting the first start time from the second start time is predefined and pre-stored at the local receiver 117 (segment 0-t') (col. 6/lines 31-36).

As for claim 6, in view of claim 1, Kermode further discloses “wherein the storing the segment comprises storing the segment at a user location” (Fig. 1/buffer 117 within receiver 115 or receiver 1 or 2 at the user location (col. 5/lines 25-48).

As for claim 7, in view of claim 1, Kermode further discloses “wherein the storing the segment comprises storing the segment in a non-volatile manner” (col. 5/lines 38-41).

As for claim 8, in view of claim 1, Kermode further suggests “wherein the storing the segment comprises storing the segment on a rotating disk”, i.e., a hard drive for storing segments within the receiver or set top box 1 & 2, and a hard drive regarding as a rotating disk because it contains motors, electronics and other gadgetry for storing (writing) and retrieving (reading) data in a rotating manner on a disk (col. 5/lines 38-41).

As for claim 9, in view of claim 1, Kermode discloses “comprising recording the segment from the first distribution conduit”, i.e., the segment and the example, as disclosed earlier in claim 5, from the first distribution conduit is being stored or recorded (Fig. 2, and col. 6/lines 14-36).

Regarding claims 10-20, these claims for “a distribution program product for pre-storing a portion of a program distributed on a plurality of distribution conduits and in a linear schedule with staggered start times, the distribution program product comprising: code for determining a first start time of the program on a first distribution conduit; code for determining a second start time of the program on a second distribution conduit; code for determining a stagger time between the first start time and the second start time; code for storing a segment of the program about equal in length to the stagger time that begins storing the segment before a user requests the program” (referred to a software product, and the network system uses computer algorithms for analyzing and determining the controlling, the downloading, the distributing, and partitioning or segments, storing and retrieving segments of programs, data, videos, see col. 1/line 45 to col. 3 line 67 for backgrounds on computer products for this invention) and “a method for pre-storing a portion of a program distributed on a plurality of distribution conduits and in a linear schedule with staggered start times, the method comprising: determining a first start time of the program on a first distribution conduit; determining a second start time of the program on a second distribution conduit; wherein at least one of the first and second distribution conduits comprises at least one of a digital channel, an analog channel, a broadband network; determining a stagger time between the first start time and the second start time, wherein the determining the stagger time comprises subtracting the first start time from the second start time; and storing a segment

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of the program about equal in length to the stagger time, wherein the storing the segment comprises beginning to store the segment proximate to a user location before the user requests to view the program” with same limitations are rejected for the reasons given in the scope of claims 1-9 as disclosed in details above.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTA KIEU-OANH T BUI whose telephone number is (703)305-0095. The examiner can normally be reached on MON - THUR (8:30AM - 6:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHRISTOPHER GRANT can be reached on (703)305 -4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KB
Mar. 24, 2005



Krista Bui
Primary Examiner
Art Unit 2611